***THE HON'BLE Ms. JUSTICE G. ROHINI**

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+Writ Petition Nos.23133 & 23131 OF 2005

% 6.12.2005

T. Dashmanth Reddy.

(Petitioner in W.P.No.23133 of 2005)

S. Devender Reddy.

(Petitioner in W.P.No.23131 of 2005) .. Petitioner.

Vs.

$ The Election Officer/Assistant Registrar

Of Co-operative Societies,

The Syndicate Farmers Service Co-operative

Society Limited, Alwal, Ranga Reddy District

and four others. .. Respondents.

(in both W.P.Nos.23133 & 23131 of 2005

!Counsel for the Appellant : Sri. E. Madan Mohan Rao

^Counsel for the Respondents: G.P. for Co-operation

(R-1 to R-4.)

Sri B. Adinarayana Rao

(for R5)

Cases Referred :

- Nil -

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION Nos.23131 & 23133 OF 2005

6th December, 2005.

W.P.No.23131 of 2005:

Between:

T. Dashmanth Reddy. .. Petitioner.

And

The Election Officer/Assistant Registrar

Of Co-operative Societies,

The Syndicate Farmers Service Co-operative

Society Limited, Alwal, Ranga Reddy District

And four others. .. Respondents.

W.P.No.23133 of 2005:

Between:

S. Devender Reddy. .. Petitioner.

And

The Election Officer/Assistant Registrar

Of Co-operative Societies,

The Syndicate Farmers Service Co-operative

Society Limited, Alwal, Ranga Reddy District

And four others. .. Respondents.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION Nos.23131 & 23133 OF 2005

COMMON ORDER:

These two Writ Petitions which involve common questions of fact and law are heard and decided by this Common Order.

The Writ Petitioners in both the Writ Petitions claim to be the Directors of the 2nd respondent-Syndicate Farmers Service Co-operative society Limited, Alwal. The facts as stated in the affidavits filed in support of the Writ Petitions are as under:

As per the election schedule issued by the election authority, the elections to the 2nd respondent-society, were conducted on 22.10.2005 and 13 Directors including the petitioners herein were elected. Subsequently, the election to the office

bearers of the Managing Committee was proposed to be conducted on 23.10.2005. It is stated that the petitioner in W.P.No.23131 of 2005 submitted his nomination to the post of Vice President at 10.50 a.m. Similarly, the petitioner in W.P.No.23133 of 2005 submitted his nomination to the post of the President. The 1st respondent-Election Officer, having received the said nominations issued acknowledgment slips. It is contended that no other nominations were received, except the two nominations filed by the petitioners and in the circumstances, the 1st respondent ought to have declared the result on the same day and ought to have declared them elected unopposed to the posts of Vice-president and President respectively. However, the 1st respondent postponed the election process to the next day i.e., 24.10.2005 at 9.00 a.m. on the ground of insufficient quorum. On 24.10.2005 fresh nominations were filed to the posts of the President and Vice President and the same were received by the 1st respondent, and strangely the said persons (arrayed as Respondent No.5 in the two writ petitions) who filed nominations on 24.10.2005 were declared elected unanimously to the posts of the President and the Vice President. Aggrieved by the said action, these two Writ Petitions are filed seeking a declaration that the said election as arbitrary and illegal, and to set aside the same. A further declaration was also sought that receipt of the nominations on 24.10.2005 itself is illegal and contrary to the election schedule.

The 1st respondent-Election Officer, filed counter-affidavits stating that though it is a fact that on 23.10.2005 the petitioners submitted their nominations for the post of the Vice-president and the President respectively, they refused to sign in the Minutes book and coerced the 1st respondent to receive the nomination under acknowledgment. Though the 1st respondent informed them that in the absence of quorum the process of election of Office bearers cannot be commenced, the petitioners coerced him to receive their nominations and there was unaccountable mob around 150 members who created a big scene and threatened the 1st respondent. To avoid further law and order problem, he had to postpone the meeting to 24.10.2005. It is further stated that as there was no quorum he did not take further action i.e., publication of list of nominations received, scrutiny and etc., as required under the Rules and postponed the meeting to the next day i.e., 24.10.2005, and notices indicating the programme of election of Office bearers was also affixed on the Notice Board, besides informing every elected Director individually in writing.

The allegation of the petitioners that the 1st respondent did not conduct the meeting in spite of availability of quorum has been specifically denied. It is further explained that on 24.10.2005 seven elected Directors attended the meting and signed in the Minutes Book. The 5th respondent in W.P.No.23131 of 2005 submitted his nomination for the Post of Vice-president and the petitioner in W.P.No.23133 of 2005 submitted his nomination for the post of the President and the same were properly proposed and seconded, as required under law. Thereafter the result was declared on completion of the election process. The petitioners for the reasons best known to them did not attend the meeting scheduled on 24.10.2005 despite receipt of the notice. Hence all the allegations made by the Writ Petitioners are incorrect and without any basis and the election conducted on 24.10.2005 was strictly in accordance with the provisions of Rule 24(12)(b) of the A.P. Co-operative Societies Rules.

Separate counter-affidavits have been filed by the elected candidates on the same lines stating that the meeting scheduled to be held on 23.10.2005 was postponed to 24.10.2005 by the 1st respondent since only four members were present on 23-10-2005 and there was no quorum. The meeting was reconvened on 24.10.2005 and they submitted their nominations to the posts of the Vice-president and the President respectively which were the only valid nominations received. The election process went on in accordance with law and they were declared elected unopposed.

I have heard the learned Counsel for both the parties and perused the material on record.

For proper appreciation of the controversy involved in the Writ Petitions, sub-rule (12) of Rule 22 of the A.P. Co-operative Societies Rules, 1964 (for short, 'the Rules') as amended under G.O.Ms.No.223, Agriculture and Co-operation (Co-op.IV) Department, dated 27-6-2005 may be extracted hereunder:

> *"(12) Election of Office Bearers :--*
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> *(a) The election of office bearers of the society shall be held in the registered Head Office of the society. As soon as the members of the managing committee have been elected, the election officer, notwithstanding anything in the bye-laws of the society issue a notice, convene a meeting of the newly constituted Managing Committee for the purpose of election of President or Vice President, Chairman or Vice-Chairman, Secretary or other office bearers of the society, by whatever name they are called. This*

meeting shall be held not later than three (3) days from the date of election of the managing committee. The proceedings of such election of other office bearers shall be recorded in the minutes book of the society.

(b) The procedure for conduct of election of the office bearers shall be as follows :

The Election Officer shall issue a notice in Form-XIII to all the directly elected members of the Managing Committee calling upon them to elect the office bearers of the society. This notice shall specify the mode and programme of conduct of elections. On the appointed day, between the hours of 9:00 to 11:00 hrs., nominations shall be received. The nominations shall have a proposer and seconder who shall be from the other elected members of the Managing Committee.

At 11.30 AM, the Election Officer shall scrutinize the nominations and put up on the notice board of the society the list of valid nominations. The withdrawals shall be permitted between 12:00 to 14:00 hrs. Notice of withdrawal shall be made in Form VI and presented to the Election Officer in person by the candidate. Final list of the contesting candidates shall be published at 14:30 hrs., by the Election Officer. The polling shall take place between 15:00 to 17:00 hrs., and counting shall commence at 17:30 hrs., and results declared forthwith. The Election Officer shall preside over such meeting. The quorum for the meeting shall be the majority of the members of the managing committee. If there is no quorum the election officer shall adjourn the meeting to the next day. In the adjourned meeting also if there is no quorum, the members present shall constitute the quorum."

A perusal of the above provision shows that as soon as the members of the Managing Committee have been elected, the ***Election Officer shall convene the meeting of the newly constituted Managing Committee*** for the purpose of election of the President, Vice President, Chairman or Vice Chairman, Secretary or other Office bearers of the Society by whatever name they are called. The Election Officer shall issue a notice in Form XIII to all the elected members of the Managing Committee calling upon them to elect the Office bearers of the Society. Such notice shall specify the mode and programme of conduct of elections. On the appointed day, between the hours of 9.00 to 11.00, nominations shall be received. At 11.30 a.m. Election Officer shall scrutinize the nominations and put up on the Notice Board of the Society the list of the valid nominations. Withdrawals shall be permitted between 12 to 14 hours and final list of contesting candidates shall be published at 14.30 hours. The polling shall take place between 15 and 17 hours and counting shall commence at 17.30 hours and result shall be declared forthwith.

It is also clear from the above provision that the quorum for the meeting of the newly constituted Managing Committee for the purpose of election of the office-bearers shall be the majority of the members of the Managing Committee. If there is no quorum, the Election Officer shall adjourn the meeting to the next day and in the adjourned meeting also if there is no quorum, the members present shall constitute the quorum.

In the case on hand, since 13 Directors have been elected to the Managing Committee of the 2nd respondent-Society, the majority shall be seven members. Though the petitioners alleged that in spite of availability of the quorum on 23.10.2005, the 1st respondent postponed the election process to 24.10.2005, no material has been placed before this Court to substantiate the said plea. On the other hand, the case of the respondents is that since there was no quorum on 23.10.2005, the election was postponed to 24.10.2005. The 1st respondent-Election Officer also pleads that since there was no quorum on 23.10.2005, he informed the Writ Petitioners that the election of the Office bearers cannot be commenced. However, the petitioners who were accompanied by a mob of around 150 persons, threatened the Election Officer and coerced him to receive their nomination under acknowledgment. The petitioners also refused to sign in the Minutes Book. To avoid further law and order problem and since there was no quorum, he postponed the meeting to 24.10.2005.

It is to be noted that the material on record shows that on 24.10.2005 seven elected Directors have attended the meeting and all of them signed in the Minutes book. It is also relevant to note that on 23-10-2005 the list of nominations was admittedly not published. That apart, the petitioners never protested against the postponement of the election from 23.10.2005 to 24.10.2005. This itself shows that there was no quorum on 23.10.2005 and that the election was postponed for valid reasons.

Then the question that arises for consideration is whether it is necessary to conduct the meeting on 24.10.2005 on the basis of the nominations already received on 23.10.2005, and whether it is not open to the 1st respondent to receive any fresh nominations on 24.10.2005.

As noted above, sub-rule (12) of Rule 22 is in two parts. Whereas, the first

part under Clause (a) mandates that the Election Officer within 3 days from the date of election of the Managing Committee shall convene a meeting of the newly constituted Managing Committee for the purpose of election of the Office bearers, the 2nd part under Clause (b) in detail provides the procedure for conducting election of the Office bearers.

The learned Counsel for the petitioners does not dispute the legal position that the meeting of the newly constituted Managing Committee as required under Clause (a), can go on only when there is required quorum and if there is no such quorum the Election Officer shall adjourn the meeting to the next day.

However, the learned counsel submits that the nominations shall be received only on the appointed day specified in the notice in Form XIII, as provided under Clause (b) of sub-rule (12) of Rule 22. According to the learned Counsel, even in the event of postponing the meeting to the next day for want of quorum, the Election Officer is bound to conduct the meeting and proceed with the election process on the basis of the nominations already received.

On the other hand, the learned Government Pleader as well as the learned Counsel appearing for the elected candidates submitted that the quorum as prescribed under Clause (b) of sub-rule (12) of Rule 22 is mandatory and in the absence of the quorum, it is not open to the Election Officer even to receive the nominations and therefore the 1st respondent has rightly received fresh nominations on 24.10.2005 and conducted the elections on the basis of the same.

On a combined reading of the two parts of sub-rule (12) of Rule 22 it is clear that the election process for the purpose of election of the Office bearers can be commenced only when a meeting with required quorum is convened. Election process includes filing of the nominations. Hence, acceptance of nominations by the Election Officer would arise only when a valid meeting is convened. In the absence of such meeting with required quorum the question of receiving nominations does not arise.

In the case on hand, since admittedly there was no quorum on 23.10.2005, it cannot be said that a meeting was convened as required under Clause (a). Hence, the mere fact that the Election Officer received the nominations of the petitioners is of no consequence. As a matter of fact, acceptance of such nominations was illegal, since no meeting in the eye of law was convened on 23.10.2005. In the circumstances, the

contention of the petitioners that the 1st respondent ought to have conducted the meeting on 24.10.2005 only on the basis of the nominations already received on 23.10.2005 is without any substance. As expressed above, the receipt of nominations by the 1st respondent on 23.10.2005 in the absence of the quorum as prescribed under Clause (b) of sub-rule (12) of Rule 22 was *per se* illegal, and therefore the nominations received on that day cannot be taken into consideration for any purpose. Hence, in my considered opinion the 1st respondent having postponed the meeting to 24.10.2005 has rightly convened the meeting of the elected members of the Managing Committee and recommenced the election process starting from receiving nominations.

However, the learned counsel for the petitioners contended that such course adopted by the 1st respondent-Election Officer, would amount to changing the election schedule, which is impermissible under law. The learned counsel contends that the power to change the election schedule is conferred only on the Election Authority and the Government under Rule 22-C of the Rules under the circumstances specified thereunder and therefore the action of the 1st respondent is without jurisdiction. I am unable to agree with the said contention.

Clause (b) of sub-rule (12) of Rule 22 of the Rules itself provides for postponement of the meeting where there is no quorum. As a matter of fact, the Election Officer is bound to adjourn the meeting to the next day in the absence of quorum. Since the election schedule is dependent on convening the meeting of the Managing Committee, the entire schedule gets changed once the meeting is adjourned and it would automatically start afresh on the adjourned date.

For the aforesaid reasons, the Writ Petitions are devoid of any merit. The procedure followed by the 1st respondent in declaring the 5th respondent in both the writ petitions elected, does not suffer from any infirmity warranting interference by this Court under Article 226 of the Constitution of India.

The Writ Petitions are accordingly dismissed. No costs.

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(G. ROHINI, J.)

6th December, 2005.

Note:- LR copy to be marked.

(B/O)

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